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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,772	04/26/2001	Masami Miyanishi	0666.1650000	5026
26111	7590	01/05/2004	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			LOWE, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/719,772	MIYANISHI, MASAMI
	Examiner	Art Unit
	M. Scott Lowe	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 October 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,2 and 11-13 is/are allowed.
- 6) Claim(s) 3-8 and 14 is/are rejected.
- 7) Claim(s) 9 and 10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 April 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Information Disclosure Statement

The information disclosure statement filed 4/26/01 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no translation was provided. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

The references on the information disclosure statement (IDS) submitted on 4/26/01 were reviewed at face value as no translation was supplied and the references are listed on the attached form 1449.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 58-30851.

Re claim 3, JP 58-30851 (figures 1-2) teaches a structure of a work machine having a plurality of drive parts which are individually driven and controlled with hydraulic pressure, comprising:

a base 3;

a boom bracket 8 mounted on the base 3, the boom bracket 8 being formed on its upper end with a pair of boom support portions (figure 2) and provided below each of the boom support portions (not numbered) with a hose guide hole (not numbered);

a boom 9 serving as one of the drive parts, the boom being provided at its base end with a pair of supported portions (not numbered) formed in a bifurcated manner, wherein each of the supported portions is pivoted by each of the boom support portions via a horizontal pivot shaft (not numbered) so that the boom is vertically rotatably attached on the boom bracket;

hydraulic actuators 7, 12, 13, 14 for driving the respective drive parts of the work machine,

and operation oil hoses (not numbered) for supplying operation oil to the hydraulic actuators extending from the base, wherein each of the operation oil hoses penetrates through each of the hose guide holes.

Re claim 4, JP 58-30851 (figures 1-2) teaches the work machine structure according to claim 3, further comprising:

a hydraulic actuator 14 for driving the boom 9 being arranged on a side of the boom 9 opposite to the base 3, wherein the operation oil hoses penetrating through the

respective hose guide holes (not numbered) are provided to supply operation oil to the hydraulic actuator for driving the boom.

Re claim 5, JP 58-30851 (figures 1-2) teaches the work machine structure according to claim 3, wherein the boom bracket 8 (figure 2) is provided with a pair of ribs (figure 2) formed downwardly on both sides of each of the boom support portions so that the operation oil hose penetrating through each of the hose guide hole is passed through each of a valley between both the ribs below each of the support bracket portions.

Re claim 6, JP 58-30851 (figures 1-2) teaches structure of a work machine having a plurality of drive parts which are individually driven and controlled with hydraulic pressure, comprising:

a base 3;
a boom bracket 8 mounted on the base 3;
a boom 9 serving as one of the drive parts, the boom 9 being vertically rotatably attached on the boom bracket 8, a supported portion (not numbered) to be pivoted on the boom bracket being joined to a base end (not numbered) of a main body of the boom 9, and
a reinforcement member (the boom hydraulic cylinder supports) being plastered on the joint portion between the main body and the supported portion of the boom, wherein the reinforcement member is formed of a plate-like member which becomes thinner toward a tip end of the boom 9.

Claims 7,8, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Takashima (US Des. 309,313).

Re claim 7, Takashima teaches a structure of a work machine having a plurality of drive parts individually controlled and driven by respective hydraulic actuators comprising:

a base on which the work machine is attached, the base including an upper plate portion arranged in the vicinity of the work machine;
a first plurality of operation oil hoses extending from the base for supplying operation oil to the respective hydraulic actuators;
end portion connectors of the oil hoses being arranged on the upper plate portion, and a second plurality of operation oil hoses piped on the work machine to be connected to the respective hydraulic actuators, wherein end portions of the operation oil hoses piped on the work machine are detachably connected to the respective end portion connectors of the first plurality of operation oil hoses extending from the base.

Re claim 8, Takashima teaches a structure of a work machine having a plurality of drive parts which are individually controlled and driven with the hydraulic pressure, comprising:

a base ;
a boom serving as one of drive parts, the boom being pivoted at its base end on the base;
an arm serving as one of the drive parts, the arm being pivoted on a tip end of the boom;

a hydraulic actuator for driving the arm;
an operation oil hose piped inside of the boom for supplying operation oil to the hydraulic actuator, and
a pair of mutually oppositely located brackets for pivoting a base end of the hydraulic actuator, the pair of brackets being arranged on a rear surface of the boom, wherein the boom is provided on its rear surface between the brackets with a hose taking-out opening for pulling the operation oil hose from the inside of the boom to the outside through said pair of brackets.

Re claim 14, Takashima teaches a structure of a work machine having a plurality of drive parts which are individually controlled and driven with hydraulic pressure, comprising:
a base;
a boom 10 serving as one of the drive parts, the boom being pivoted at its base end on the base;
an arm serving as one of the drive parts, the arm being pivoted on a tip end of the boom;
an arm fulcrum bracket fixed to the tip end portion of a main body of the boom for pivoting a base end of the arm, the arm fulcrum bracket including a main plate member, a reinforcement plate, and a bracket having a hose running through the main plate member being joined to the tip end portion of the boom and projecting further than the tip end portion of the main body of the boom, the reinforcement plate being plastered on

the projecting portion of the main plate member, so that the main plate member and the reinforcing plate constitute a pivoting portion for pivoting the base end of the arm.

Allowable Subject Matter

Claims 1-2, 11-13 are allowed.

Re claim 1, the prior art taken as a whole does not show nor suggest a hose guide member fixed to an upper end portion of the pivot pin so that the hose guide member and the boom bracket can be integrally rotated horizontally with respect to the base, and operation oil hoses extended from the base for supplying operation oil to the hydraulic actuators, wherein the operation oil hoses are guided and piped to the inside of the boom via the hose guide member. The closest prior art, JP 58-30851, does not include a hose guide member fixed to an upper end portion of the pivot pin so that the hose guide member and the boom bracket can be integrally rotated horizontally with respect to the base, and operation oil hoses extended from the base for supplying operation oil to the hydraulic actuators, wherein the operation oil hoses are guided and piped to the inside of the boom via the hose guide member as required by the claim and there is no motivation absent the applicant's own disclosure, to modify the JP 58-30851 reference in the manner required by the claims.

Re claim 12, the prior art taken as a whole does not show nor suggest an angle rib fixed to a tip end of the boom, wherein a surface of the angle rib to be attached to the rear surface of the boom is extended toward the base end of the boom so as to form an extension portion, and an open hole communicating the inside and the outside of the

boom, the open hole being formed on the extension portion. The closest prior art, Pilch, does not include an angle rib fixed to a tip end of the boom, wherein a surface of the angle rib to be attached to the rear surface of the boom is extended toward the base end of the boom so as to form an extension portion, and an open hole communicating the inside and the outside of the boom, the open hole being formed on the extension portion as required by the claim and there is no motivation absent the applicant's own disclosure, to modify the Pilch reference in the manner required by the claims.

Claims 9, 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Re claim 9, the prior art taken as a whole does not show nor suggest a cover attachment washer fixed to the peripheral portion of the hose taking-out opening so as to reinforce the peripheral portion of the hose taking-out opening in the boom, wherein a cover can be attached on the cover attachment washer for sealing the hose taking-out opening while allowing the piping of the operation oil hose to the hydraulic actuator for driving the arm. The closest prior art, Pilch, does not include a cover attachment washer fixed to the peripheral portion of the hose taking-out opening so as to reinforce the peripheral portion of the hose taking-out opening in the boom, wherein a cover can be attached on the cover attachment washer for sealing the hose taking-out opening while allowing the piping of the operation oil hose to the hydraulic actuator for driving

the arm as required by the claim and there is no motivation absent the applicant's own disclosure, to modify the Pilch reference in the manner required by the claims.

Re claim 11, the prior art taken as a whole does not show nor suggest the hose attachment plate is arranged in such a manner that an angle thereof formed with the rear surface of the boom between the bent portion and the tip end becomes substantially equal to another angle thereof formed with the rear surface of the boom between the bent portion and the base end. The closest prior art, Pilch, does not include the hose attachment plate is arranged in such a manner that an angle thereof formed with the rear surface of the boom between the bent portion and the tip end becomes substantially equal to another angle thereof formed with the rear surface of the boom between the bent portion and the base end as required by the claim and there is no motivation absent the applicant's own disclosure, to modify the Pilch reference in the manner required by the claims.

Re claim 13, the prior art taken as a whole does not show nor suggest an angle rib fixed to the tip end of the boom, wherein the angle rib is provided with an inclined surface from a tip end portion of the angle rib to a rear surface of the boom, and wherein the operation oil hose piped inside of the boom penetrates the inclined surface; and an end portion connector of the operation oil hose being arranged on an external side of the inclined surface. The closest prior art, Pilch, does not include an angle rib fixed to the tip end of the boom, wherein the angle rib is provided with an inclined surface from a tip end portion of the angle rib to a rear surface of the boom, and wherein the operation oil hose piped inside of the boom penetrates the inclined surface;

and an end portion connector of the operation oil hose being arranged on an external side of the inclined surface as required by the claim and there is no motivation absent the applicant's own disclosure, to modify the Pilch reference in the manner required by the claims.

Conclusion

Applicant's arguments filed 10/8/03 have been fully considered but they are not persuasive.

Regarding the argument that JP58-30851 does not teach a hose guide hole provided below each of the boom support portions, this reference does show this item in figure 2.

Regarding the argument that JP58-30851 does not teach a reinforcement member being plastered on a joint portion between the main body and the supported portion of the boom, this is not the case. This is shown in figure 1. Applicant appears to be arguing a different element.

Applicant's arguments with respect to claim 7,8, and 14 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is 703-305-1940. The examiner can normally be reached on 6:30am-4:30pm M,Tu,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


EILEEN D. LILLIS
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msl